

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

STEPHEN BAIN,  
Plaintiff

v.

ROBERT HOFMANN, et al.,  
Defendants

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File No. 1:06-CV-214

**ORDER**

The Magistrate Judge's Report and Recommendation was filed May 31, 2007 (Paper 25). After de novo review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1). Plaintiff's motion for default judgment (Paper 5) is DENIED.

This matter is returned to Magistrate Judge Niedermeier for further proceedings.

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 26<sup>th</sup> day of June, 2007.

/s/ J. Garvan Murtha  
J. Garvan Murtha  
United States District Judge